

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

James R. Cassettari

94-01649

Name of Respondent(s)

Fidelity Brokerage Services, Inc.

REPRESENTATION

For Claimant, James R. Cassettari ("Cassettari"): Pro Se, Fort Lauderdale, FL.

For Respondent, Fidelity Brokerage Services, Inc. ("Fidelity"): Ann Marie Dever, Esq. of Fidelity, Boston, MA and Larry Goldstein of Fidelity, Fort Lauderdale, FL.

CASE INFORMATION

Statement of Claim filed: May 2, 1994. Claimant's Submission Agreement signed: April 26, 1994.

Statement of Answer filed by Respondent: July 5, 1994. Respondent's Submission Agreement signed: July 5, 1994 by Anne Marie Gillett on behalf of Fidelity.

HEARING INFORMATION

On April 11, 1995, in Fort Lauderdale, Florida a hearing lasting 1 session was conducted.

CASE SUMMARY

Claimant alleged that Fidelity misrepresented the asking price of stock in Genetic Therapy on Monday April 12, 1993 at \$12.00 per share; that, as a result, he placed a limit order to purchase 2500 shares at \$12.00 per share; that Claimant later learned that the stock opened at \$13.00 and, as a result, his limit order was never executed; that Claimant was only able to purchase 2,000 shares at 13 3/4; and, that as a result, Claimant suffered a loss of \$750.00 per 1,000 shares or \$1,875.00.

Respondent denied all allegations of wrongdoing and alleged that Fidelity gave Cassettari the correct price quote per the Market Maker Price Movement Report from NASDAQ for April 12, 1993; that Claimant's limit order was not executed because there were other orders at \$12.00 which were ahead of Claimant's order and the price increased during the morning; that had Claimant entered a market order, it could have been executed at a price less than 13 3/4; that Fidelity properly placed all orders given by Claimant on April 12, 1993; and, that Fidelity cannot be held responsible for Claimant's decision to place a limit order.

RELIEF REQUESTED

Claimant requested damages of \$1,875.00.

Respondent requested dismissal.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on the file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Fidelity, is found liable and shall pay to the Claimant the amount of \$1,875.00.

OTHER COSTS

None.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed Forum Fee(s) in the amount of \$25.00.
2. Respondent is hereby assessed \$25.00 payable directly to the Claimant in reimbursement for the hearing session deposit previously paid by the Claimant which shall be retained by the NASD, Inc.
3. Respondent shall also reimburse the Claimant \$25.00 for the non-refundable filing fee previously paid by the Claimant.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator's Signature
Name

Public

/s/
Meah Dell Rothman, Tell, Esq.

Date of Decision: April 11, 1995